

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SHAWN CAESAR KNOX, JR.,

Plaintiff,

v.

DEPUTY SHERIFFS CHESSMORE and MEJIA,

Defendants.

OPINION and ORDER

21-cv-213-jdp

Pro se plaintiff Shawn Caesar Knox, Jr.'s probation officer has notified the court that Knox has died. Knox was proceeding in this case on claims that deputy sheriffs at Dane County Jail used excessive force against him and denied him proper medical care for asthma and diabetes. Dkt. 8.

Under Rule 25(a)(1) of the Federal Rules of Civil Procedure, Knox's successors or representatives have 90 days after receiving notice of Knox's death to file a motion to be substituted as the plaintiff in this case. But the 90-day deadline does not begin running until defendants serve the notice of death on the successors or representatives. *See Atkins v. City of Chicago*, 547 F.3d 869, 870–74 (7th Cir. 2008). Defendants have not stated whether they have served notice on the proper party to be substituted in this case. The proper party is “the decedent’s successors (if the estate has been distributed) or personal representative ([if] it has not been).” *Id.* at 873. I will give defendants 30 days to identify the proper party to be substituted and then serve notice on that party. Once Knox's successors or representatives have been notified, they will have 90 days to file a motion for substitution.

ORDER

IT IS ORDERED that:

1. Defendants may have until June 20, 2022, to serve the proper party with notice of death and to file proof of service or show cause why they were unable to do so.
2. If defendants file proof of service, Knox's successors or personal representative will have 90 days to file a motion for substitution.

Entered May 20, 2022.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge